

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEO LERMA,

1:06-cv-01509-SMS-PC

Plaintiff,

ORDER DENYING PLAINTIFF’S REQUEST
TO REOPEN CASE

v.

(Doc. 13.)

M. M. MILLER,

Defendant.

I. BACKGROUND

Leo Lerma (“plaintiff”) is a former prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on October 26, 2006. (Doc. 1.) On November 14, 2006, plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). (Doc. 4.)

On September 22, 2009, the undersigned dismissed the complaint, based on plaintiff’s failure to state a claim, with leave to file an amended complaint within thirty days. (Doc. 9.) The thirty day period expired, and plaintiff failed to file an amended complaint or respond otherwise to the Court’s order, leaving no pleading on file setting forth a cognizable claim. As a result, on November 24, 2008, the Court dismissed this action, with prejudice, for plaintiff’s failure to state a claim. (Doc. 11.) On January 22, 2009, plaintiff filed a notice to the Court, requesting leave to continue with this action. (Doc. 13.)

1 **II. MOTION FOR RECONSIDERATION**

2 Motions to reconsider are committed to the discretion of the trial court. Combs v. Nick
3 Garin Trucking, 825 F.2d 437, 441 (D.C. Cir. 1987); Rodgers v. Watt, 722 F.2d 456, 460 (9th
4 Cir. 1983) (en banc). The Local Rules provide that when filing a motion for reconsideration, a
5 party show that the “new or different facts or circumstances claimed to exist which did not exist
6 or were not shown upon such prior motion, or what other grounds exist for the motion.” Local
7 Rule 78-230(k)(3).

8 Plaintiff claims that he has been trying to contact the Court about all his pending cases.
9 He asks for an opportunity to explain why he was unable to respond earlier to the Court.
10 However, plaintiff does not use his opportunity to explain. Although he claims he has an
11 explanation for his failure to respond, he has not articulated any reason. Plaintiff has not shown
12 the Court any new or different facts or circumstances upon which to reconsider the order which
13 dismissed this action. Therefore, plaintiff’s request shall be denied.

14 **III. CONCLUSION**

15 Based on the foregoing, IT IS HEREBY ORDERED that plaintiff’s request for the Court
16 to reopen this action is DENIED.
17 IT IS SO ORDERED.

18 **Dated:** April 10, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE